

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

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In the Matter of:

Delaware Station Post Office
Albany, New York 12209
(Delaware Area Neighborhood
Association, Petitioner)

Docket No. A2011-1

POSTAL REGULATORY
COMMISSION
OFFICE OF THE SECRETARY

**Response of Delaware Area Neighborhood Association to United States Postal
Service's November 5, 2010 Notice**
(November 10, 2010)

The Delaware Area Neighborhood Association (DANA) is submitting this response to the November 5, 2010 Notice submitted by the United States Postal Service (Postal Service) at the present time because we are unsure whether we need to respond within the seven day period for responding to motions (39 C.F.R. 3001.21(b)). The Postal Service did not call its November 5, 2010 correspondence a motion. In order not to miss a deadline, we are responding now.

The Postal Service stated that it does not have a final administrative record supporting discontinuance the Delaware Station that complies with the standards applicable to a Post Office discontinuance. The Postal Service also stated that such a record is not required because Delaware Station is not a post office and Postal Regulatory Commission (Commission) jurisdiction under 39 U.S.C. section 404(d) does not attach. The Postal Service stated its understanding that the Commission lacks jurisdiction to review Postal Service decisions regarding the discontinuance of stations and braches, but then went on to say both that it could file a motion to dismiss but that "[h]istory suggests such an act would not be constructive."

Thus, it appears that the Postal Service has not moved to dismiss this appeal based upon its position that the Commission lacks jurisdiction to review discontinuance of stations. The Commission has repeatedly rejected this position, and has treated stations as post offices in this context (Docket No. 2006-1, Observatory Finance Station, September 29, 2006 Order).

It is unclear why the Postal Service referred to the Hacker Valley case (PRC Docket No. A2009-1) in connection with whether it would move to dismiss the Delaware Station appeal. The October 19, 2009 Hacker Valley order cited by the Postal Service did not have to do with jurisdiction over stations; the Postal Service's motion in the Hacker Valley case was based upon its argument that it had only suspended operation of the Hacker Valley post office and no final determination had been made to close it.

The final determination that was enclosed as Exhibit 1 of the Postal Service's notice has not been provided to customers. As of November 8, 2010, Exhibit 1 was not available for public inspection at the Delaware Station post office. Exhibit 1 does not contain any indication of a signature, nor a date of signature.

The Postal Service's November 5, 2010 Notice went on to state that the procedural requirements of 39 U.S.C. section 404(d) do not apply because the discontinuance of Delaware Station does not qualify as a closure as envisioned by that section. The Postal Service cited the June 22, 2010 order in PRC Docket No. A2010-3 (East Elko Station, NV) as stating that these procedural requirements do not apply where postal customers do not lose access to postal services due to the location of alternate retail facilities in "close proximity" to the discontinued station, and that 1.7 miles qualifies as close proximity. The Postal Service stated that five other postal facilities are located within 1.7 miles of Delaware Station, and attached as Exhibit 2 a print-out of postal locations near 12209.

The Postal Service's argument about closure should be rejected for several reasons. The present case differs from the situation described in the East Elko order in several respects. East Elko Station was just off the same street as the Elko Main Post Office, approximately 1.5 miles apart, and the two facilities offered the same services (East Elko order, at 7 - 8).

In contrast, none of the post offices that the Postal Service identifies as being within 1.7 miles of Delaware Station are on the same street. The street layout is particularly important when considering the loss of access by postal patrons who rely on buses or walking for transportation, as discussed further below.

Delaware Station is open on Saturday mornings from 9:00 AM to 12:00 PM,

both for access to post office boxes and for window service. Of the five post offices with mileages of 1.7 or less, only Academy Station has Saturday morning business hours. All of the others are closed for business on Saturday.

Academy Station was on the July 30, 2009 list of stations/branches identified for discontinuance study in Docket No. N2009-1. On the most recent list (January 29, 2010) its closure status is marked as "Not Feasible At This Time," suggesting that it might be considered for closure again at a future date.

The Postal Service's September 22, 2010 letter to Delaware Station postal box customers stated that the Delaware Station post office box addresses would be moved to the Hudson Avenue post office. At Hudson Avenue, the post office box lobby is open on Saturday mornings but the window is closed. Thus, a person using a box there could check the box on Saturday morning but then would need to go to another postal facility to access window services. The Hudson Avenue post office does not provide the same services as Delaware Station, due to not having Saturday window hours.

The East Elko order stated that most customers of that station are post office box holders living in the rural areas of Elko, Nevada, and that walk-in customers tend to be employees of surrounding businesses, including stores in a mall, hotels and a casino. This appears to be a more car-oriented population of customers, in contrast to a significant portion of Delaware Station's customers who do not drive. The appeals submitted by Albany City Council Member Dominick Calsolaro, the Delaware Avenue Merchants Group, Diana Wright, Eleanor Laing and Laura Welles illustrate that numerous people in this area of Albany do not drive, for a variety of reasons including age, eyesight and income.

Academy Station, for which the Postal Service's Exhibit 2 shows "1.3 miles," is at 563 New Scotland Avenue. Using a map, I measured 1.47 miles as the distance one would walk taking what appears to be the most direct street route from Delaware Station to Academy Station. This would be a nearly three mile round-trip. Using the 1.5 to 2.0 miles per hour walking speed cited in the Postal Service's Exhibit 1 (at 4), three miles takes an hour and a half to two hours. For someone who currently has a short walk to the Delaware Station, walking to Academy Station would involve an

additional one and a half to two hour trip. This is not "close proximity," and is a loss of access.

To go to Academy Station by bus, one would take the Delaware Avenue bus and change to the New Scotland Avenue bus at Holland and Delaware. A DANA member checked this on MapQuest and found it to be 2.28 miles one-way. The length of time the trip would take would vary with the varying bus schedules, which run more often during rush hour and on weekdays. In Albany, a one-way trip not involving a transfer would cost \$1.50 (\$0.75 for persons over 65 or with a disability) and a day card that allows for transfers is \$4 (Capital District Transportation Authority fares). For someone who currently can get to Delaware Station for free, taking the bus to Academy Station would cost \$3 or \$4 round trip, and taking the bus to the Hudson Avenue post office would cost \$1.50 (seniors/disabled) or \$3 round trip. This also represents a loss of access, particularly for low-income residents.

The above discussion pertains to the differences between the situations in East Elko and the present case. The East Elko order's discussion of two earlier cases contains concepts that also support a conclusion that the closure of Delaware Station is indeed a closure, not a rearrangement of services.

The East Elko order (at 6 - 7) describes the Ecorse Branch case (Docket No. A2007-1) as a situation in which customers could obtain the same services at a new facility located 1.7 miles away and were not losing service, and the actions involving the Ecorse Branch were part of a larger retail facility realignment plan servicing the community.

Similarly, the East Elko order (at 6) describes the Oceana Station order (Docket No. A82-10) as stating that the Postal Service's decision to close the Oceana Station would be considered within the context of the Postal Service's other actions in the area, and that those actions were part of a plan to enhance the postal network of Virginia Beach.

No new facility is being proposed by the Postal Service in connection with closing Delaware Station, and, as discussed above, customers will be losing service and losing access.

Closing Delaware Station is not part of any plan to enhance the postal

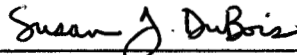
network within Albany, New York. If anything, it is part of a still-developing plan to decrease the postal network within Albany. The January 29, 2010 list of candidates for discontinuance study, in Docket No. N2009-1, includes five stations within the City of Albany: Delaware, Academy, Fort Orange, Patroon and Pine.

The January 29, 2010 list shows Delaware, Patroon and Pine as still under consideration for closure, and the Postal Service recently announced its decision to close Delaware. It is my understanding that Patroon and Pine are still being considered for closure as of the present time. According to the list, closure of Academy and Fort Orange are "Not Feasible At This Time," suggesting that the Postal Service intends to reconsider at a later date whether it can close these stations as well.

In conclusion, closure of Delaware Station is closure of a post office and the procedural requirements of 39 U.S.C. section 404(d) apply.

Respectfully submitted,

Delaware Area Neighborhood Association


by: Susan J. DuBois, DANA Treasurer
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November 10, 2010

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Delaware Area Neighborhood Association
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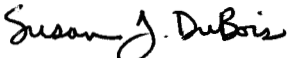
Shoshana Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Re: Reply to USPS November 5, 2010 Notice
Docket No. A2011-1, Delaware Station, Albany, New York

Dear Ms. Grove:

Enclosed please find three copies of the Delaware Area Neighborhood Association's reply to the United States Postal Service's November 5, 2010 Notice. I am submitting this as a hard copy document because my computer is not adequate to submit it electronically. I have filed a request for a waiver of the electronic filing requirement, and a decision on the request is pending. Because there might be a deadline of November 12, 2010 for the present response, I am filing it today by overnight mail.

Yours truly,


Susan J. DuBois
D.A.N.A. Treasurer

Encl.